

Applicant: Lionel Vedrine
Application No.: 10/573,226
Filing Date: November 20, 2008
Attorney Docket No.: P-6156 (102-782 PCT/US)
Page 6 of 8

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-4 are in the application. Through this amendment, claim 1 has been amended.

In the Official Action, the Examiner raised an issue relative to Applicant's priority claim. In particular, the Examiner questioned whether a statement should have been included in the application for priority claim purposes. In response, it is respectfully submitted that the subject application is a 371 National Stage Application and not an application under 35 U.S.C. §119(e), §120, §121 or §365(c) which claims priority to a parent PCT application. Accordingly, no statement is necessary in the subject application. (See, MPEP §1893.03 *et seq.*; see also MPEP p. 1800-208 ("[I]t is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage.")) It is respectfully submitted that the priority claim of the subject application is proper and complete.

The Examiner also indicated that the references cited in the International Search Report have not been considered. Submitted concurrently herewith is an Information Disclosure Statement citing the references.

The Examiner objected to the specification for lacking appropriate section headings. In response, the specification has been amended to include proper section headings. It is respectfully submitted that, as amended, the subject specification is in accord with standard U.S. practice.

Claim 1 was rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 2,752,918 to Huybert.

Huybert is directed to a hypodermic injection apparatus which is shown in Figure 1 in a pre-use state. The apparatus includes a needle 27 which is normally covered by nosepiece 21. (Col. 2, ll. 4-8). The needle 27 is fixed to a stem 29 which includes a notch 31. Plate 32 sits in the notch 31 in a normal state to prevent movement of the stem 29. (Col. 2, ll. 16-20). With release of the notch 31 from the plate 32, as shown in Figure 2, the needle 27 is caused to be driven from the nosepiece 21 under force of the spring 35. (Col. 3, ll. 38-59). Post-injection, the needle 27 is caused to return to its initial state, with the plate 32 nesting in the notch 31. (Col. 4, ll. 5-25). Thus, with the Huybert apparatus, the needle 27 is housed within the nosepiece 21 before and after use and is only caused to be exposed during injection.

With reference to claim 1, a device for injection of a product is provided which includes “a body (2) receiving a hollow injection needle (4) and a container (10) containing the product to be injected”. Further, “the needle (4) and container (10) being moveable relative to said body between an injection position and a retracted position”. The device of claim 1 further includes “means (5 to 7; 28, 29) for holding the needle in the injection position, which means normally hold the needle (4) in said injection position, and which means can be released to permit movement of the needle (4) from the injection position to said retracted position”. In contrast, the Huybert apparatus does not have any configuration for holding the needle 27 in the injection position. Rather, the Huybert apparatus normally holds the needle 27 in a retracted position. Moreover, there is no basis to modify the Huybert device to avoid the normal retracted position. It is respectfully submitted that claim 1 is patentable over Huybert.

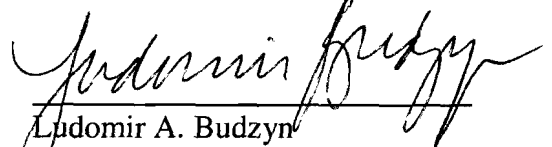
Claims 2-4 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Huybert.

Claims 2-4 depend from claim 1. For the reasons set forth above, and as depending from claim 1, it is respectfully submitted that claims 2-4 are also patentable over Huybert.

Applicant: Lionel Vedrine
Application No.: 10/573,226
Filing Date: November 20, 2008
Attorney Docket No.: P-6156 (102-782 PCT/US)
Page 8 of 8

Favorable action is earnestly solicited. If there are any questions or if additional information is required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Ludomir Budzyn', written over a horizontal line.

Ludomir A. Budzyn
Registration No.: 40,540
Attorney for Applicant

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700